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A-8

SERIAL NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTORNEY DOCKET NO.
08/777,032	12/30/96	CATANZARO	D

MR. DAVID CATANZARO  
626 PENN AVENUE  
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IM22/1112

EXAMINER		
ART UNIT	GRAHAM	PAPER NUMBER
DATE MAILED:	1744	25

11/12/99

Please find below a communication from the EXAMINER in charge of this application.

Commissioner of Patents

Art Unit: 1744

### **RESPONSE TO QUERY**

Applicant's October 18, 1999 request for clarification as to why provisional patent application 60/009,323 was not acknowledged at priority under 35 U.S.C. 119(e) is noted.

An application in which the benefits of an earlier application are desired must be copending with the prior application. A provisional application will automatically be abandoned 12 months after its filing date and will not be subject to revival to restore it to pending status thereafter. Since a provisional application can be pending for **no more than 12 months**, if the last day of pendency is on a Saturday, Sunday, or Federal holiday, copendency would require that the later filed nonprovisional application be filed on or prior to the said Saturday, Sunday, or Federal holiday. See MPEP 201.04(b) and 37 CFR 1.78(a)(3). Applicant's provisional patent application has not been acknowledged in the instant application since the time elapsed since the filing of the provisional application (60/009,323), filed December 28, 1995, until the filing of the non-provisional application (08/777,032), filed December 30, 1996, was more than 12 months. Therefore, the non-provisional application was abandoned and not copending with the provisional when it was filed.

Art Unit: 1744

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Gary K. Graham at 703-308-1270. The Examiner can normally be reached Tuesday through Friday.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Robert Warden, can be reached on (703) 308-2920. The fax phone number for this Group is (703) 305-7719.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0651.



GARY K. GRAHAM  
PRIMARY EXAMINER  
GROUP 1700

November 12, 1999  
gkg